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SUMMARY RECORD OF THE 1552nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 November 1996, at 3 p.m.

Chairman: Mr. BÁN

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In the absence of Mr. Aguilar Urbina, Mr. Bán, Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Germany (continued) (CCPR/C/84/Add.5)

1. At the invitation of the Chairman, the members of the delegation of Germany took places at the Committee table.

2. The CHAIRMAN invited the Committee to continue its consideration of the fourth periodic report of Germany (CCPR/C/84/Add.5).

3. Mr. BHAGWATI said that, while Germany's overall human rights record was exemplary, he, nevertheless, had a number of concerns. In particular, he failed to understand Germany's reservation under the Optional Protocol in respect of article 26 of the Covenant, which implied a reluctance to undergo international investigation in respect of complaints regarding one of the most fundamental human rights.

4. He endorsed Mrs. Chanet's remarks concerning articles 8, 9, 11 and 12 of the Basic Law, which conferred rights that were confined to German nationals.

5. He would like to know whether the fourth periodic report had been made available to non-governmental organizations (NGOs) in Germany before its submission to the Committee.

6. He endorsed Lord Colville's question whether there was any independent machinery for investigating complaints of ill-treatment by the police. According to a report by Amnesty International, only minimal action had been taken in response to a number of complaints lodged against a particular police station.

7. Having asked under what legal provision and in what circumstances it was permissible to conduct a search of premises and to seize documents and materials, he said he also wished to know whether the services of convicted prisoners were placed at the disposal of private individuals, companies or associations and, if so, whether the consent of the prisoner was required; what provision was made for the payment of wages and social security benefits; whether the prisoner could terminate his services at will and, when prisoners were employed within places of detention, what the normal working hours and the minimum wage were.

8. He asked whether there were different wage scales in the private sector for physically light and heavy work, with lower wages prevailing in the "light wage groups" which were composed mostly of women.

9. He inquired about the impact of the Kalanke v. Germany decision of the European Court of Justice on policies for the advancement of women in the various sectors of the economy and the impact of the Vogt v. Germany decision

of the European Court of Human Rights on the employment and dismissal of public-service staff who were disadvantaged by their previous political connections.

10. What was the maximum permissible period of solitary confinement? Was it true that Birgit Hogefeld had been kept in strict solitary confinement from June to December 1993 and, if so, were the German authorities aware of the serious physical and psychological damage that could ensue from such treatment?

11. Did the spouse of a German national automatically acquire German nationality and was there any difference in treatment between non-German husbands and wives in such cases? Was dual nationality possible?

12. Was it true that civil-war refugees were ineligible for consideration as refugees under the Asylum Proceedings Act and could be granted only "toleration permits" that carried no civil or political rights apart from restricted access to medical care and social benefits?

13. Article 33 of the 1951 Convention on the Status of Refugees, which Germany had ratified, recognized two exceptions to the principle of non-refoulement: where the refugee posed a danger to national security and where he or she had been convicted of a particularly serious crime and hence constituted a danger to the community. Was the expulsion of, for example, ethnic Kurds who had sought refuge in Germany consistent with article 33? Was it true that Bosnian refugees were being repatriated or even deported? Was the assistance of the United Nations High Commissioner for Refugees (UNHCR) sought in determining whether it was safe for them to return?

14. Who determined refugee status in the case of asylum-seekers held on airport premises? Was there any provision for legal review of the decision? Was the 19-day period of detention ever exceeded and, if so, in what circumstances? Where refugee status was denied but the asylum-seeker could not be deported, was a temporary permit issued or was detention extended and, if so, under what circumstances? What steps were taken to ensure compliance with article 9 of the Covenant in the case of airport detainees?

15. Having regard to the Committee's General Comment No. 23 (50) on article 27 of the Covenant, how were rights under that article secured for ethnic minorities, immigrant communities and asylum-seekers? What provision was made to ensure that the restricted definition of minorities referred to in paragraph 244 of the report was compatible with Germany's obligations under article 27?

16. How was the principle of family reunification under article 23 of the Covenant applied in the case of refugees, asylum-seekers and other aliens?

17. Had the retraining programmes for police officers and prison officials in the new eastern Länder proved effective? Was there any human rights component in the curricula applied in schools, colleges and police academies?

18. Mr. BUERGENTHAL, having stated that he had been greatly impressed by the decisions of the Federal Constitutional Court, which obviously played a vital

role in the protection of human rights in Germany, said he was concerned at the emergence of xenophobia and racism in Germany and particularly at cases where the police force failed to intervene and actually seemed to sympathize with the offenders, especially in certain parts of the former German Democratic Republic (GDR). He had the impression that insufficient attention was being given to the training of police officers in the protection of human rights.

19. Mr. POCAR said that statistics on certain issues were lacking because they fell within the competence of the individual Land. Where the implementation of articles of the Covenant was left to the Länder, he would like to know how closely the Federal authorities monitored their compliance with Germany's obligations under international law.

20. With regard to the principle of non-discrimination, he associated himself with the remarks made by other members regarding article 3 of the Basic Law. Paragraph 191 of the report reproduced the German Government's reservations concerning the Committee's General Comment 18(37) on article 26. The Government objected to the Committee's view that distinctions were permissible if they were based on reasonable and objective criteria designed to achieve a purpose that was legitimate under the Covenant. He failed to see how a distinction that was inconsistent with the Covenant could be acceptable and thought that the example given in paragraph 6 of the Government's reservations was not pertinent.

21. Article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination stated that the Convention did not apply to distinctions between citizens and non-citizens. That was not the same as saying that such distinctions were not to be regarded as discrimination. He failed to understand the exact purpose of the German Government's comment and wondered whether it implied that Germany was entering a reservation regarding the scope of article 26 not only under the Optional Protocol but also under the Covenant.

22. Mr. FRANCIS said he was concerned about possible violations of the principle of non-discrimination in the downsizing of personnel previously employed in various occupations in the former GDR. Action that prevented qualified people from practising their professions was an infringement of article 2, paragraph 1, and article 25, paragraph (a), of the Covenant. He asked whether the German authorities had considered the possibility of social rehabilitation through appropriate employment and submitted that, in many cases, the persons concerned had been prisoners of their circumstances and had been forced to comply with a repugnant regime in order to practice their professions.

23. Mr. WECKERLING (Germany), answering the questions relating to the succession of States and the international agreements of the former GDR, said that the international obligations of the old Federal Republic of Germany had been extended to the five new Länder with the exception, for example, of agreements concerning issues of territory such as the eastern border with Poland. The GDR had entered no reservations when ratifying the Covenant, so it was valid for the whole State, with the reservations entered by the old Federal Republic of Germany. It was in the light of that situation that the

position of the Federal Republic of Germany regarding the General Comments on article 26 was to be understood. The Committee had misgivings about that position, but it should remember the large area involved in the extension of jurisdiction and the fact that the principle of equality in the Basic Law, coupled with the existence of the Constitutional Court, ensured conformity in practice with the provisions of article 26.

24. The differences under the Basic Law between persons with German nationality and others did not amount to a great deal in practice, because such fundamental rights as freedom of association and freedom of assembly were enshrined in domestic legislation and judicial practice, particularly in the interpretation of the Federal Constitutional Court. Articles 2 and 3 of the Basic Law guaranteed the principle of equality, and any apparent differences were governed thereby.

25. Implementation of an individual's fundamental rights could always be secured by an application to the Federal Constitutional Court. An individual could, however, forfeit his or her basic rights as a result, for example, of expressing extreme right-wing views.

26. The Unification Treaty contained provisions establishing the conditions for the dismissal, under certain circumstances, of former GDR civil servants. There had been much reluctance to take advantage of that provision, and there had also been cases of its misuse being corrected by the courts. In some instances, the practical consequences of discrimination had been to the advantage of former GDR civil servants who had been retrained and redeployed. The State reserved the right to take into its public service only those who could be guaranteed to adhere to its constitution.

27. Like many other countries, Germany had an unemployment problem, which was particularly acute in the new Länder, but there was no obvious correlation wit the low quota of the persons taken over from the civil service of the former GDR. Persons who, for reasons of age or other reasons, were unable to work any longer received social assistance and pension payments, carried over from the arrangements they had had in the former GDR.

28. Cases of ill-treatment of foreign detainees by police officers were investigated either by police officers from other Länder or territories or by the public prosecution service. There was no provision in the German legal system for investigation by independent persons. Disciplinary procedures could result in dismissal or they could have implications for a person's career or level of remuneration.

29. There were parallel investigation procedures at federal and Länder levels which were guaranteed to be free from influence by the police officers or forces being investigated. A system called "internal revision" had been established in Berlin, Brandenburg and Hamburg to undertake internal investigation of police malpractice, and other Länder were thinking of doing the same. Preventive measures were already in place in many Länder: they involved programmes for training police officers to deal with stress and conflict.

30. Human rights issues and the treatment of aliens were dealt with in various areas of training, and a series of seminars had recently been held on the subject of police officers and their dealings with foreigners. Under the umbrella of the Federal Ministry of Justice, preventive measures had been drawn up to deal with cases of xenophobic behaviour in the police service, the prison service and the judicial system in general.

31. The Federal Constitutional Court guaranteed efficient control and protection of fundamental rights and of the rights guaranteed by the Covenant. It adjudicated complaints by individuals and acted as an objective check on German legislation. It had the power to declare laws invalid and to force the legislature to change or amend legislation. A Crime Prevention Act had been introduced in 1995 against the backdrop of violent xenophobic acts to ensure that sentences were passed as soon as possible after the crime had been committed - so as to limit the possibility of others being influenced to engage in similar behaviour - and to ensure that offenders were not held in custody for too long. Such summary proceedings did not mean that the individual had less legal protection. In any event, he or she could always appeal to the Federal Constitutional Court, which would undertake full-scale scrutiny of the judgement.

32. Mrs. VOELSKOW-THIES (Germany) said that some members of the Committee had stated that xenophobia existed in Germany and that the police were standing by and doing nothing about it. When such general accusations had been investigated they had not been confirmed; the Government thus did not accept them. Since 1990, the police had been receiving training as a result of which there had been a reduction in recorded cases of xenophobia-related crime. There had been a dramatic decrease from 2,277 cases in 1992 to 1,609 in 1993, 860 in 1994 and 540 in 1995. The number of cases involving anti-Semitism had fallen from 41 in 1994 to 27 in 1995.

33. The figures showed that the vast proportion of the German population had a positive attitude towards foreigners and no sympathy with violence against them; they also accepted them as asylum-seekers. There was a positive attitude towards Jews.

34. Mr. HABERLAND (Germany) said that efforts to integrate foreigners concentrated on the transition period from school to vocational life by, for example, improving proficiency in the Germany language so as to help young foreigners enter the labour market. Opportunities were provided for schools to teach children of Turkish origin the Turkish language, but one of the problems was that those lessons were scheduled for the afternoons and, consequently, were poorly attended; Turkish consulates sometimes offered language tuition also. More details of the German Government's integration efforts would be provided to the Committee in writing.

35. As for cultural assistance to the 70,000 gypsies living in Germany, he said that the gypsies had set up their own associations in the individual Länder, with a central council as the umbrella organization. Its office was funded by the Federal Government. It included a documentation centre, located at Heidelberg, which was funded to an extent of 90 per cent by the Federal Government and 10 per cent by the Land in which it was situated. There was a special gypsy theatre, and a radio and television station broadcasting in the

gypsy language; various Länder staged cultural days. Gypsy children grew up bilingual, learning German in school and their own language from their parents. In accordance with the European Charter for Regional or Minority Languages, consultations were being held with the Länder with a view to providing tuition in the gypsy language.

36. Replying to questions about the time periods required for naturalization, he said that the shortest period - five years - was for spouses of Germans, no distinction being made between men and women. The time period for people granted political asylum as political refugees under the Geneva Convention was seven years. Any other foreigner could apply for German nationality after 10 years' residence, but it was at the discretion of the respective authority and upon proof of proficiency in the German language.

37. Two groups were entitled to naturalization: children and young people born in Germany who applied for naturalization between the ages of 18 and 23, having attended a German school and having no criminal record; and foreigners who had been living in Germany for 15 years or longer. Both groups had to renounce their old nationality, since it was the principle in Germany to prevent dual nationality wherever possible.

38. The contracts of the guest workers recruited by the former GDR from Viet Nam, Mozambique, Cuba, Poland, Angola and China stated that they could stay and work in the GDR for five years only, and had then to return home. Following unification, the Government had stated that they would have to return home after the five years was up. That decision had been strongly criticized, and the Federal Commissioner for Foreigners had demanded that they be allowed to stay; in 1992, the Länder had agreed that the Federal Minister of the Interior should handle the matter.

39. In 1993, it had been decided that anyone from Viet Nam, Mozambique and Angola who had entered the country on the basis of a contract with the Government of the former GDR could remain, provided that he or she had a contract that was valid until 17 December 1993 and was able to provide for his or her own maintenance. That period had subsequently been extended to 17 April 1994. Many people had met those requirements but many others had not and, following a readmission agreement with Viet Nam, many of the former Vietnamese guest workers had begun to return home in 1996.

40. The question had been asked whether a member of the Danish minority in the north who moved to a different part of the country lost the special protection accorded to that minority. That was so, in practice, because such protective measures were linked to the presence of a large Danish community in that geographical area. There was high unemployment in the north and many efforts were being made involving German-Danish cooperation within the European Union, to create jobs in the area.

41. The relationship between Germans and Danes in northern Germany was, however, often cited as an example for other parts of Europe. In fact, a centre for the study of minority questions in Europe was to be opened in northern Germany, with funding by Germany, Denmark and the European Union.

42. A great deal was being done to help national minorities to conserve their languages and cultures, and there were special schools and kindergartens for children of various linguistic backgrounds. A distinction had to be made, however, between minorities created as a result of shifting State borders and those consisting of people who had freely chosen to immigrate. In the latter case, Germany was less concerned to promote the use of the native language, the objective being to achieve the integration of the immigrants into German society.

43. The option of family reunification was available for the "core" family, namely, spouses and children up to 16 years of age; as an exceptional measure and for special reasons reunification of less closely related family members could be authorized. The option applied equally to foreign guest workers and to refugees. Asylum-seekers could not apply for family reunification while their asylum proceedings were pending. Germany sought to promote the early integration of children of foreign guest workers, so that they could learn the German language and acquire skills and qualifications that would enhance their future chances of employment. It had no desire to see such people marginalized.

44. Mr. Prado-Vallejo had drawn attention to paragraph 61 of the report, which indicated that the aliens' registration office could impose certain limitations on the provisional residence permits granted to asylum-seekers. Such measures were applied in practice only in cities that covered large geographical areas, such as Hamburg and Bremen, to enable the aliens' registration offices to circumscribe the movements of asylum-seekers for administrative purposes.

45. Refugees from the civil war in the former Yugoslavia were not entitled to medical treatment under the Asylum-Seekers Act. They could be granted work permits, if no German national or citizen of a member of the European Union or its associated country, Turkey, had applied for the post in question. Such work permits were frequently granted. They did not have the right to vote in municipal elections, a right accorded only to nationals of member States of the European Union.

46. The 19-day limit for the retention of asylum-seekers on airport premises could be exceeded when asylum proceedings culminated in deportation orders, or when the asylum-seeker had burnt his identity papers, thus necessitating time-consuming negotiations for the issue of new identity documents. He had no information on the maximum time period an individual could be held on airport premises.

47. Ms. HELLBACH (Germany) said that a question had been asked about the selection of judges in the new Länder. After the radical changes in 1989-1990, special committees for the selection of judges had been set up, comprising judges from the former GDR and representatives of the Länder judicial authorities formed immediately after the changes. Those committees had investigated the background of all the judges in the former GDR, with the result that only some 600 of approximately 1,600 judges had been confirmed in their posts. Of the 1,200 public prosecutors screened, only 365 had been retained.

48. Building up the necessary number of judges had been a major challenge: the western federal Länder had lent many judges to the eastern Länder through bilateral agreements, which had functioned quite well. Judicial and criminal proceedings had been simplified, but the numerous new instructions and provisions applicable to the new Länder had nevertheless been difficult to handle at first.

49. There had not been very many lawyers in the former GDR, the number of proceedings having been very limited, and their qualifications had been somewhat dubious, and often largely political. The ranks of qualified lawyers had grown rapidly, however, from about 600 to 5,500, many being lawyers from the west who had elected to practice in the east.

50. Measures to promote the equality of women, which included the adoption of the Second Equal Treatment Act in 1994 and of an amendment to an administrative law, had greatly improved the framework conditions for part-time jobs and had given women equal rights to such employment. The percentage of women in the higher ranks of the civil service was not very great, though it was somewhat better in the middle and lower grades. The institution of part-time jobs had enabled some progress to be made in the employment of women in the civil service.

51. She had only limited statistics on women's position in the economy as a whole, but they were not very well represented in senior management positions; only 6.5 per cent in major enterprises. Women were successful as entrepreneurs if they had inherited the enterprise, but when they founded companies or started services independently, they met with stiff competition, especially in the new Länder.

52. In 1994, the Civil Code had been amended to ensure that information on vacancies was provided to both women and men. It was difficult for a woman to prove that she had been rejected for a post on the basis of her sex, but, if she succeeded in doing so, she could ask for compensation. The labour courts had set the amount of such compensation at a maximum of three months' salary.

53. According to the Basic Law, the State was obliged to protect the life of the unborn. Consequently, consultations must be held and the woman given three days to consider her decision before an abortion could be carried out in the first 12 weeks of pregnancy. If those conditions were met, a physician who carried out an abortion did not incur liability. The situation was identical in both parts of the country. Draft legislation to abolish the public guardianship of children of unwed female minors had been submitted to Parliament.

54. Mrs. FEY (Germany), referring to the question about the outside contacts of people detained in high-security facilities, said that the facilities established in the 1970s to deal with terrorists had nearly all been phased out. Virtually all the prisoners that had been detained in such facilities had been transferred to regular detention centres and, like other prisoners, had access to persons from outside. Persons, whether closely related to the prisoners or not, could visit them and write to them.

55. For reasons of security, however, such visits might be monitored by decision of the prison authorities in individual cases. Visits by lawyers to persons imprisoned in 1970 for acts of violence and the establishment of terrorist groups could also be monitored.

56. There were a great many controls, both formal and informal, on the punishment of prisoners. Complaints could be submitted to the supervisory organs, including ministries and the courts. The legal position of prisoners was the same as that of other citizens. They could apply for review by the courts of any measure to which they were subjected while in detention. If all other legal remedies were exhausted, they could apply to the Federal Constitutional Court and, in accordance with the European Convention on Human Rights, to the European Court of Justice. There was also public monitoring of prisoners' conditions through the establishment of prison councils, comprising private citizens independent of the prison authorities, who visited prisons to examine individual cases and take up general issues of detention conditions.

57. The question had been asked whether information was provided in their native languages to incarcerated foreigners. The law-enforcement and prison authorities had made extensive efforts to provide information sheets on rights and obligations in the major foreign languages, but they obviously could not cover all the world's languages. Prison officials also gave information orally to prisoners, especially illiterate ones. If it was impossible to communicate with a detainee, an interpreter was brought in. In many Länder, foreigners were employed as advisers and that, too, contributed to the flow of information.

58. She was able to update the statistics in paragraph 55 on remand prisoners in 1989 to 1994: the total number of people imprisoned on remand had increased significantly, to over 38,000, but a large number, about 10,000, had been in custody for no more than one month; 11,000 had been imprisoned for one to three months, less than 10,000 for three to six months, 5,700 for six months to one year and 1,900 for over one year.

59. Imprisonment on remand did not generally last for more than six months: extension was possible only if the investigation was especially time-consuming or complex, and only by order of a higher regional court. An accused person could apply for a review of the duration of pre-trial imprisonment at any time.

60. Replying to a number of questions asked by Mr. Bhagwati, she said that solitary confinement was applied in exceptional cases only. If extended beyond a period of three months, the measure had to be reported to the Ministry of Justice of the Land concerned. It was imposed only in the interests of safety or in order to protect a detainee from undesirable influences, the principle of proportionality being strictly observed.

61. All detainees except those subject to a special prohibition were allowed some daily contact with others and given the possibility of engaging in a useful occupation of some kind. All prisoners could wear their own clothes, put up their own curtains, decorate their cells with personal objects, receive a newspaper, engage in a course of study, etc.

62. On the question of prisoners' work, she explained that work was not regarded as a punishment but, like education, as part of the process of the prisoner's rehabilitation. Whether the prisoner was employed inside or outside the prison, and whether his employer was the prison authority or a private company, the task of technical supervision still remained the responsibility of the prison authority.

63. Under the Prison Act, the arrangement whereby a prisoner went out to work for a private company required his or her consent, but the law implementing that provision had not yet been enacted, because some prison authorities thought that consent might be unreasonably withheld. While taking those objections into account, the Federal Government was nevertheless trying to apply the provision and hoped that the procedure bringing that part of the Prison Act into force, would be completed in 1997.

64. As for remuneration, prisoners working in prison workshops were paid at the rate of five per cent of the average earnings of all employed persons for that year, the average daily rate in 1996 being DM 9.91. There were five grades of pay according to the difficulty of the job, as well as special allowances in certain cases; the figure given represented an average. Prisoners paid on that basis did not have to contribute towards their keep, medical care or other prison costs. Those working outside the prison were paid on a straightforward contractual basis from which social insurance, maintenance charges, etc., were deducted.

65. The 5 per cent rule was frequently debated and was generally considered unsatisfactory, but attempts to increase the rate had not so far met with success, because of the reluctance of the Länder concerned to incur additional costs. The Committee could rest assured that the matter would be pursued further.

66. Mr. WECKERLING (Germany) replying to questions (a) and (b) in Part II of the list of issues, said that Committee's views and decisions were reproduced in German legal publications and were taken into account in connection with the interpretation of constitutional provisions. They also had repercussions on rulings of the Constitutional Court in respect of individual complaints. The Covenant had been invoked in connection with certain acts committed in the GDR before reunification, such as orders given to shoot people trying to cross the border of the Berlin wall, and articles 23 and 24 of the Covenant had been quoted in connection with the Children and Parents Act. Generally speaking the Basic Law went further than the provisions of the Covenant or of the European Convention in guaranteeing the enjoyment of human rights and fundamental freedoms. In borderline cases, the judicial authorities invariably took due account of the provisions of the Covenant and other international instruments.

67. In reply to question (c), he said that, as the function of examining magistrate did not exist in Germany, investigations to collect evidence in the pre-trial stage, including house searches and confiscation of objects, were conducted by order of the Public Prosecutor or the police. The principle of proportionality was observed in all cases.

68. Telephone tapping was authorized under an Act of 1968 but was subject to judicial rather than police control. Mere suspicion was not considered a sufficient ground, and the crime in question had to appear in the list of serious offences specified in the Act. The person whose telephone had been tapped was subsequently notified of the fact and only persons in a limited category were authorized to listen to the recordings.

69. The regulations were less strict in the case of inspection of mail, which could be ordered on suspicion, but there again the crime in question had to be a serious one. The use of photographs or video recordings taken outside a suspect's dwelling was authorized only if other methods of investigation were considered unpromising.

70. The regulations were even more stringent where third parties were concerned. Shadowing of third parties was authorized only when there were serious grounds to suspect their involvement in the crime. Evidence overheard outside the suspect's dwelling was subject to still stricter rules.

71. Mrs. VOELSKOW-THIES, replying to question (e) - question (d) having been covered earlier, explained that personal data could not be collected or divulged without the individual's consent, except to prevent a serious threat to public welfare or the commission of a criminal offence endangering other persons. Certain types of personal data in the possession of the social administration could be divulged to the police if it was in the public interest.

72. The data-protection regulations also applied to the records of the "Stasi" subject to the provisions of the Act of 20 December 1991 mentioned in paragraph 98 of the report. In certain cases, the Federal Commissioner in charge of the Stasi files could, on his own initiative, divulge information contained in the files to the public authorities.

73. Other personal data that could, under some circumstances, be made available to the public authorities without the consent of the individual concerned were those contained in the Central Federal Register (e.g. data relating to previous convictions, etc.), the Central Aliens Register, in connection with the granting or withholding of residence permits, and the Central Register of Traffic Offences.

74. Mr. WECKERLING, replying to question (f), said that, in matters of freedom of thought, conscience and religion, Germany adopted a neutral position based on the constitutional principle of tolerance. There was no State church and complete freedom of conscience was guaranteed for everyone and protected by the Constitution.

75. As for the activities of certain sects, the State authorities had the obligation to protect citizens against possible offences. It was not enough for an organization to describe itself as a religion or church to be recognized as such. A pluralistic democratic State could not afford to practice tolerance without any restraint whatever.

76. In certain cases, the Federal Government might issue a warning to a certain group deemed to represent a threat to citizens' enjoyment of their

rights. Such action, had, of course, to be commensurate with the danger involved. The results of judicial proceedings which had been instituted in one such matter had confirmed the Federal Government's position.

77. The "sects commissioners" referred to in the question were not appointed by the State but by certain churches and other organizations concerned about the phenomenon of sects. The Federal Government had so far been hesitant to become involved in the public debate taking place on the issue.

78. Mrs. VOELSKOW-THIES (Germany), replying to question (g), said that although the Basic Law obliged all German male citizens to do military service on reaching the age of 18, it also provided that no one could be forced to bear arms. Anyone refusing to do armed military service on conscientious grounds had to submit an application including his curriculum vitae, a detailed statement of the grounds for refusal and a police certificate of good conduct. The oral hearings which had been necessary in the past had been replaced by a written procedure.

79. In the event of a negative decision, the applicant could appeal to the Administrative Court and, if necessary, to the Constitutional Court. Those recognized as conscientious objectors could perform alternative civic service in hospitals, old people's homes, etc., or could volunteer for service abroad within the framework of development assistance. A special rule enabled Jehovah's Witnesses, who refused substitute service as well as military service on conscientious grounds, to discharge their obligations by entering into a free labour contract with an employer.

80. Mr. HABERLAND (Germany) replying to question (h), said that public servants in Germany, like all other workers and employees, had the right to join trade unions. They did not, however, have the right to strike, which was considered incompatible with the principles of loyalty inherent in their contracts. Workers and employees in private enterprises enjoyed unrestricted freedom of association, including the right to strike.

The meeting rose at 6.05 p.m.